

**Memorandum of Understanding
Between
The Department of the Interior, Bureau of Land Management,
Price Field Office
And the
State of Utah
Public Lands Policy Coordinating Office
as a Cooperating Agency
for Travel Management Planning**

I. Introduction

This Memorandum of Understanding (MOU) establishes a cooperating agency relationship between the Bureau of Land Management's Price Field Office ("BLM") and the State of Utah ("Cooperator") for the purpose of preparing the San Rafael Desert and San Rafael Swell Travel Management Plans ("TMP"). The San Rafael Desert TMP and San Rafael Swell TMP will be completed separately; however, this MOU will be relevant for each.

The BLM is the lead federal agency for development of these TMPs. The BLM acknowledges that the Cooperator has special expertise applicable to the TMP efforts, as defined at 40 CFR 1508.15 and 1508.26. This MOU describes responsibilities and procedures agreed to by the State of Utah, represented by the Utah Governor's Public Lands Policy Coordinating Office (PLPCO), as Cooperating Agency and the BLM ("the Parties").

The cooperating agency relationship established through this MOU shall be governed by all applicable statutes, regulations, and policies, including the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (in particular, 40 CFR 1501.6 and 1508.5), the BLM's planning regulations (in particular, 43 CFR 1601.0-5, 1610.3-1, and 1610.4), and the Department of the Interior's Manual regarding NEPA (516 DM 2.5).

Attachment D shows the boundaries of the San Rafael Desert and San Rafael Swell Travel Management Areas (TMAs).

II. Purpose

The purposes of this MOU are:

- A. To designate PLPCO as a Cooperating Agency in the San Rafael Desert and San Rafael Swell TMP process.
- B. To provide a framework for cooperation and coordination between the BLM and the Cooperator that will ensure successful completion of the TMP/EA processes in a timely, efficient, and thorough manner.

- C. To recognize that the BLM is the lead agency with responsibility for the completion of the TMPs and the Decision Records (DR).
- D. To describe the respective responsibilities, jurisdictional authority, and expertise of each of the Parties in the planning process.
- E. Route designations do not signify a recognition or rejection of R.S. 2477 assertions. R.S. 2477 rights are determined through a process that is separate from the BLM's travel management planning process.
- F. As per the State of Utah v. Andrus, 486 F.Supp. 995 (D. Utah October 1, 1979 (Cotter Decision), the BLM is subject to granting the State of Utah reasonable access to state lands that is not so narrowly restrictive as to render the lands incapable of their full economic development.

III. Authorities for the MOU

- A. The authorities of the BLM to enter into and engage in the activities described within this MOU include, but are not limited to:
 - 1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
 - 2. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
 - 3. Settlement Agreement in *Southern Utah Wilderness Alliance, et al, v. U.S. Department of the Interior, et al.*
- B. Regulations implementing the above authorities:
 - 1. Council on Environmental Quality regulations (40 CFR 1501 et seq.)
 - 2. BLM Planning regulations (43 CFR 1601 et seq.)
 - 3. BLM Designation of Areas and Trails regulations (43 CFR 8342 et seq.)
- C. The authorities for PLPCO to enter into this MOU include, but are not limited to:
 - 1. Title 17 of the Utah Code, generally and in particular Section 17-316, et Seq. And 17-50.317, et. Seq.
 - 2. Inter-local Cooperation Act, U.C.A. Section 11-13-202, 205, et. Seq.
 - 3. State of Utah: Pursuant to Utah Code Ann. Code Ann. § 17-53-318 and Utah Code Ann. §63J-8-103, the State and its political subdivisions may enter into cooperative agreement with other governmental entities.

IV. Roles and Responsibilities

A. BLM Roles and Responsibilities

1. As lead agency, the BLM retains final responsibility for the TMP processes and the content of all TMP, NEPA, and decision documents. For the San Rafael Desert and San Rafael Swell TMPs, the BLM's responsibilities include making available to Cooperators, the public, and other stakeholders:
 - i. Maps and GIS data of all BLM-inventoried routes being considered for designation;
 - ii. Preliminary, draft, and final route evaluation reports for each route being considered for designation;
 - iii. TMP Scoping Report;
 - iv. Baseline monitoring report;
 - v. All written input from the public and stakeholders received on the draft TMP EA document; and
 - vi. Draft and final TMPs with their associated NEPA and decision documents.

In meeting these responsibilities, the BLM will follow all applicable statutory and regulatory requirements.

2. To the fullest extent consistent with its responsibilities as lead agency, the BLM will consider the officially approved and adopted State Resource Management Plan, the officially approved and adopted Emery County Resource Management Plan, the officially approved and adopted Sevier County Resource Management Plan, comments, recommendations, data, and/or analyses provided by the Cooperator in the TMP planning process, giving particular consideration to those topics on which the Cooperator is acknowledged to possess jurisdiction by law or special expertise. To the maximum extent possible, the TMP shall be consistent with such officially approved and adopted Resource Management Plans of the State of Utah and Emery and Sevier Counties. To the extent allowable by applicable law, regulation, and policy, the BLM will consider all reasonable route designation proposals submitted by Cooperators under at least one TMP NEPA alternative.
3. After consideration of the effect such releases may have on the BLM's ability to withhold this information from other parties, the BLM will provide the Cooperator with copies of documents underlying the TMP relevant to the Cooperator's responsibilities, including technical reports,

data, analyses, comments received, working drafts related to environmental reviews, and draft and final TMPs to the fullest extent practicable.

4. There will be appropriate cooperating agency review periods offered to the Cooperator. Each of these cooperating agency review periods will be for at least three weeks. Review periods for the Cooperator could include:
 - i. Route inventory data prior to scoping
 - ii. Preliminary route evaluations
 - iii. Administrative draft of TMP environmental assessment

B. Cooperating Agency Roles and Responsibilities

1. The State of Utah, through (PLPCO), is a Cooperating Agency in the San Rafael Desert and San Rafael Swell TMP processes and is recognized to have special expertise in the following areas:
 - i. Local land use plans and policies relevant to BLM requirements for land use plan coordination and consistency.
 - ii. Expertise on environmental, social, and economic impacts of the San Rafael Desert and San Swell TMPs.
 - iii. Specialized local data and information.
2. The Cooperator will provide information, comments, and technical expertise, as well as the associated data and analysis supporting such submissions, to the BLM regarding those elements of the TMPs in which it has jurisdiction or special expertise or for which the BLM requests its assistance. In particular, the Cooperator will provide information on the following topics:
 - i. Providing guidance on public involvement strategies
 - ii. Identifying issues and data needs
 - iii. Collaborate with BLM in developing alternatives
 - iv. Suggesting management actions to resolve planning issues
 - v. Identifying effects of the alternatives
 - vi. Suggesting mitigation measures
 - vii. Providing written comments on working drafts of the San Rafael Desert and San Rafael Swell TMPs environmental assessment

3. Within the areas of its jurisdiction or special expertise, the Cooperator may participate in any of the activities identified in Attachment A. These activities include, but are not limited to: providing guidance on public involvement strategies, identifying data needs, and providing written comments on working drafts of the TMP and supporting documents.

C. Responsibilities of the Parties

1. The Parties agree to participate in this San Rafael Desert and San Rafael Swell TMP processes in good faith and make all reasonable efforts to resolve disagreements.
2. The Parties agree to comply with the planning process provided as Attachment B.
3. Each Party agrees to fund its own expenses associated with the San Rafael Desert and San Rafael Swell TMP processes.

V. Other Provisions

A. Authorities Not Altered

Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of any Party on any matter within its respective jurisdiction. Nothing in this MOU shall require any of the Parties to perform beyond its respective authority.

B. Financial Obligations

Nothing in this MOU shall require any of the Parties to assume any obligation or expend any sum in excess of authorization and appropriations available.

C. Immunity and Defenses Retained

Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.

D. Conflict of Interest

The Parties agree not to utilize any individual or organization for purposes of plan development, environmental analysis, or Cooperator representation, including officials, employees, or third party contractors, having a financial interest in the outcome of the San Rafael Desert and San Rafael Swell TMPs. Questions regarding potential conflicts of interest should be referred to BLM Ethics Counselors for resolution.

E. Documenting Disagreement or Inconsistency

Where the BLM and one or more Cooperators disagree on substantive elements of the San Rafael Desert and San Rafael Swell TMPs (such as designation of the alternatives to be analyzed or analysis of effects), and these disagreements cannot be resolved, the BLM will include a summary of the Cooperator's views in the final TMP/EA document. The BLM will also describe substantial inconsistencies between its proposed action(s) and the objectives of officially adopted state, local, or tribal land use plans and policies.

F. Management of Information

The Cooperator acknowledges that all supporting materials and draft documents may become part of the administrative record and may be subject to the requirements of the Freedom of Information Act (FOIA) and other federal statutes. The Cooperators agree not to release these materials to individuals or entities other than the Parties to this MOU and their contractors.

G. Information Confidentiality

The BLM may share information which includes, but is not limited to, documents, raw data and deliberations, with the Cooperator that is confidential or in a confidential phase of development. It is BLM's responsibility to inform the Cooperator of the level of confidentiality required for any shared information. It is the Cooperator's responsibility to comply with those confidentiality requirements. If the Cooperator has reason to believe it will be unable to comply with the confidentiality requirements, it will inform BLM of this inability before BLM shares the information with the Cooperator.

H. Coordination with the BLM's Contractor

Advanced Resource Solutions (ARS) serves as the BLM's contractor for:

- Public involvement (i.e., public scoping meetings, public comment collection)
- Data collection (i.e., route inventories)
- Environmental analysis (i.e., route evaluations, environmental assessment)

The Cooperator may communicate with the contractor only through BLM's representative. The Cooperator acknowledges that the BLM retains the exclusive responsibility to authorize modifications to the contract with ARS, and that the Cooperator is not authorized to provide technical or policy direction regarding the performance of this contract.

VI. Agency Representative

Each Party will designate a representative and alternate representative, as described in Attachment C, to ensure coordination between the Cooperator and the BLM during the

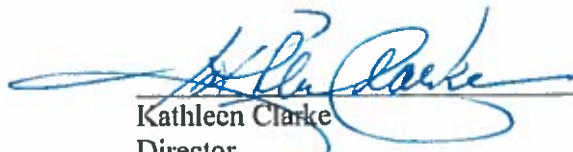
planning process. Each Party may change its representative at will by providing written notice to the other Party.

VII. Administration of the MOU


- A. Approval. This MOU becomes effective upon signature by the authorized officials of the BLM and the Cooperator.
- B. Term. This MOU, once approved, is effective until the decision record is signed by the BLM's authorized official for the San Rafael Desert TMP and San Rafael Swell TMP.
- C. Amendments. This MOU may be amended through written agreement of all signatories.
- D. Termination. If the Parties find that they cannot work together toward a common goal and efforts at dispute resolution have been unsuccessful, any Party may end its participation in this MOU by providing written notice to the other Party. If not terminated earlier, this MOU will end when the DRs for the San Rafael Desert and San Rafael Swell TMPs are approved by the BLM Authorized Officer.

VIII. Signatures

The Parties hereto have executed this MOU on the dates shown below.


Kathleen Clarke
Director
State of Utah
Public Lands Policy Coordinating Office

July 23, 2018
Date


Christopher Conrad
Field Manager
Bureau of Land Management, Price Field Office

7/26/18
Date

Attachment A

Cooperating Agency Participation in the BLM Price Field Office's Travel Management Plans

TMP Stage	Potential Activities of Cooperating Agencies (CAs) within their acknowledged areas of jurisdiction or special expertise
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1	Initiation	Meet with BLM to become familiar with travel management process and identify opportunities to participate.
2	Collect inventory data from CA	Identify data needs; provide data and technical analyses within the CA's jurisdiction or special expertise.
3	CA review of route inventory data	Once BLM has compiled GIS route inventory data, provide comments to BLM during a review prior to public scoping. A minimum of 3 weeks for this review period is suggested.
4	Conduct public scoping	May include, but is not limited to: Provide input on issues that may help drive general alternative development; identify relevant local and regional organizations and interest groups; identify connected, similar, and cumulative actions; identify other relevant agencies. CAs may provide additional comments during public scoping if so desired.
5	Develop a reasonable range of alternative designated route networks	Collaborate with field manager in developing alternatives. [Decision to select alternatives for analysis is reserved to the BLM.]
6	Conduct interdisciplinary route evaluation meetings	The CA may physically participate in the route evaluation meetings or they may provide information on specific routes that would inform the route evaluation.
7	CA review of preliminary route evaluation process	Provide comments to BLM during a review period regarding the results of the interdisciplinary preliminary route evaluation process, including the travel management plan scoping report, maps of preliminary route designation alternatives, draft route reports, and the baseline monitoring report for disturbances within WSAs, natural areas, and BLM-inventoried lands with wilderness characteristics. A minimum of 3 weeks for this review period is suggested.
8	Post preliminary route evaluation process documents online	Commensurate with the level of public and stakeholder interest in the TMP, BLM may seek further public and stakeholder interest through public meetings and/or other engagement efforts regarding the preliminary route evaluation documentation. It remains the discretion of each field office to determine whether a formal public comment period is warranted at this stage. BLM may hold a CA meeting.
9	Finalization of documentation and preparation of draft TMP	[Action reserved to BLM.]
10	CA review of administrative draft TMP	Provide comments to BLM during a review period on the administrative draft TMP. A minimum of 3 weeks for this review period is suggested.
11	Public Comment Period	BLM will release draft TMP and EA, updated draft route reports, and associated maps/GIS data for a minimum 30-day public comment period (or longer at BLM's sole discretion). The CAs may provide written, public comments on draft if desired. [Decision to select a preferred alternative and to issue a draft is reserved to the BLM.]

12	Respond to comments	As appropriate, review comments within the CA's jurisdiction or special expertise and provide assistance in preparing BLM's responses.
13	Issue final TMP, EA, Decision Record, and associated map/GIS data to the public	[Action reserved to the BLM.]
14	Sign Decision Record (DR)	[Action reserved to the BLM.]

Attachment B

Outline for Process to Complete Each Travel Management Plan*

Task	Responsibility
Initiate Travel Management Planning (TMP)	BLM**
Collect route inventory data and provide to BLM	Cooperator**
3-week Cooperator review of all BLM-provided route inventory data prior to public scoping	Cooperator**
Conduct public scoping	BLM**
Develop a reasonable range of alternative designated route networks	BLM / Cooperator (advisory)**
Conduct interdisciplinary route evaluation meetings	BLM and/or Cooperator (as appropriate)**
3-week Cooperator review of preliminary route evaluation process	Cooperator
Post preliminary route evaluation process documents online	BLM
Finalization of documentation and preparation of draft TMP	BLM
3-week Cooperator review of administrative draft TMP	Cooperator
Public Comment Period	BLM
Respond to comments	BLM / Cooperator (advisory)
Issue final TMP, EA, Decision Record, and associated map/GIS data to the public	BLM
Sign Decision Record (DR)***	BLM

* A complete project schedule will be shared with the Cooperator as soon as it is available.

** These tasks are already complete and will not be revisited.

*** Per the settlement agreement, the BLM must complete the San Rafael Desert TMP by November 30, 2019 and the San Rafael Swell TMP must be complete by November 30, 2021.

Attachment C
Agency Representatives

Bureau of Land Management

PRIMARY REPRESENTATIVE

Jacob Palma, Price Field Office NEPA Coordinator
125 South 600 West Price, Utah 84501
435-636-3660

ALTERNATE REPRESENTATIVE

Myron Jeffs, Price Field Office Recreation Planner
125 South 600 West Price, Utah 84501
435-636-3660

Utah's Public Lands Policy Coordinating Office

PRIMARY REPRESENTATIVE

Jake Garfield, Legal Counsel, State of Utah, Public Lands Policy Coordinating Office
5110 State Office Building Salt Lake City, Utah 84114-1107
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POINT OF CONTACTS

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Attachment D

